

**DELAWARE DIVISION OF PUBLIC HEALTH  
HEALTH SYSTEMS PROTECTION  
OFFICE OF FOOD PROTECTION, DOVER: 302-744-4546  
ENVIRONMENTAL HEALTH FIELD SERVICES  
New Castle County: 302-995-8650   Kent County: 302-739-5305   Sussex County: 302-856-5496**

**STATE OF DELAWARE FOOD CODE  
PROCEDURE TO REQUEST A VARIANCE  
FROM STATE OF DELAWARE FOOD CODE**

**Question:**      As the Permit Holder or Person-in-Charge of a food establishment, what procedures must I follow to request a variance to modify or waive a requirement in the Delaware Food Code?

**Answer:**          State of Delaware Food Code addresses the information requirements in the following sections:

Section 8-103.10 Modifications and Waivers  
Section 8-103.11 Documentation of Proposed Variance and Justification  
Section 8-103.12 Conformance with Approved Procedures

**Definition:**

**VARIANCE** means a written document issued by Director, Division of Public Health that authorizes a modification or waiver of one or more requirements of the State of Delaware Food Code if a health hazard or nuisance will not result from the modification or waiver.

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► **Who May Submit a Variance Request?**

A Food Establishment permit holder may submit a written request for a variance to modify or waive one or more Food Code requirements.

► **To Whom Should the Request Be Addressed?**

Two separate copies of a variance request should be sent to:

Director, Division of Public Health 417 Federal Street Dover, DE 19901-3635	and	Chief, Health Systems Protection 417 Federal Street Dover, DE 19901-3635
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► **What Happens When I Submit a Variance Request?**

- Upon receipt of the variance request, the Director's Office begins to track the request and will assign responsibility for advising the Director.
  - Upon receipt of the request by the Office of Food Protection (OFP), the request will be reviewed for the contents specified in State of Delaware Food Code, Section 8-103.11.
  - If the request is incomplete, OFP will return the request to the applicant, indicating the deficient area(s). OFP will provide a copy of this correspondence to the Director's Office and the Section Chief.
  - If the request is complete, OFP will evaluate the request on the whether the proposed alternative will satisfy the public health rationale for the State of Delaware Food Code requirement for which modification or waiver is being requested.
  - OFP will formulate a recommendation to approve or disapprove the request and, together with the basis for that recommendation, will forward both to Director DPH via Chief HSP.
  - All requests will be returned to the applicant. A disapproved request will be returned to the applicant with an indication of deficient areas needing additional controls or documentation.
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